United Nations A/HRC/AC/18/2

General Assembly

Distr.: General
27 March 2017

Original: English

Human Rights Council
Advisory Committee
Eighteenth session
20-24 February 2017
Agenda item 5
Report of the Advisory Committee on its eighteenth session

Report of the Advisory Committee on its eighteenth session*

Rapporteur: Kaoru Obata

* The annexes to the present report are reproduced in the language of submission only.

GE.17-06854(E)

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I. Action taken by the Advisory Committee at its eighteenth session

18/1. Elimination of discrimination against persons affected by leprosy and their family members

The Human Rights Council Advisory Committee,

Recalling Human Rights Council resolution 29/5 of 2 July 2015, in which the Council requested the Advisory Committee, from within existing resources, to undertake a study in which it reviewed the implementation of the principles and guidelines for the elimination of discrimination against persons affected by leprosy and their family members, together with the obstacles thereto, and to submit a report containing practical suggestions for the wider dissemination and more effective implementation of the principles and guidelines in order to eliminate discrimination and the stigma associated with leprosy and to promote, protect and respect the human rights of those affected by leprosy and their family members to the Council at its thirty-fifth session,

Recalling also that, at its fifteenth session, the Advisory Committee established a drafting group, currently composed of Laurence Boisson de Chazournes, Mario Luis Coriolano, Kaoru Obata (Chair), Obiora Chinedu Okafor, Changrok Soh, Ahmer Bilal Soofi and Imeru Tamrat Yigezu (Rapporteur), and Xinsheng Liu, who joined the drafting group at the current session,

Recalling further that, at its sixteenth session, the Advisory Committee took note of the preliminary report on the implementation of the principles and guidelines for the elimination of discrimination against persons affected by leprosy and their family members submitted by the drafting group to the Advisory Committee,

Recalling that, at its seventeenth session, the Advisory Committee took note of the progress report on the implementation of the principles and guidelines for the elimination of discrimination against persons affected by leprosy and their family members submitted by the drafting group to the Committee,[1] and requested the drafting group to submit its draft final report to the Committee at its eighteenth session,

1. *Takes note* of the draft final report on the implementation of the principles and guidelines for the elimination of discrimination against persons affected by leprosy and their family members submitted by the drafting group to the Advisory Committee at its current session;[2]

2. *Adopts* the draft final report ad referendum, and entrusts the Rapporteur with its finalization with a view to submitting the final report to the Human Rights Council at its thirty-fifth session.

9th meeting
24 February 2017

[Adopted without a vote.]

[1] A/HRC/AC/17/CRP.1

[2] A/HRC/AC/18/CRP.1

18/2. Regional arrangements for the promotion and protection of human rights

The Human Rights Council Advisory Committee,

Recalling Human Rights Council decision 32/115 of 30 June 2016, in which the Council requested the Advisory Committee to prepare a report on regional arrangements for the promotion and protection of human rights, in particular on the progress made in the establishment of regional and subregional arrangements for the promotion and protection of human rights, and their achievements in all regions of the world, and on the role played by the Office of the United Nations High Commissioner for Human Rights, as well as on the role that it can play in future in advancing cooperation between international and regional human rights mechanisms, and to identify ways to increase the role that regional arrangements play in promoting and protecting human rights and to reinforce universal human rights standards, including as contained in international human rights instruments, and to submit the report to the Council before its thirty-ninth session,

Recalling also that the Human Rights Council encouraged the Advisory Committee, when preparing the above-mentioned report, to take into account the views of Member States, as appropriate, relevant international and regional organizations, the Office of the High Commissioner, national human rights institutions and non-governmental organizations and other relevant stakeholders,

Recalling further that, at its seventeenth session, the Advisory Committee established a drafting group, currently composed of Mohamed Bennani, Laurence Boisson de Chazournes, Mario Luis Coriolano, Carla Hananía de Varela, Mikhail Lebedev, Kaoru Obata, Katharina Pabel (Chair), Anantonia Reyes Prado, Changrok Soh (Rapporteur) and Imeru Tamrat Yigezu, and Xinsheng Liu, who joined the drafting group at the current session,

1. *Takes note* of the draft preliminary report on regional arrangements for the promotion and protection of human rights submitted by the drafting group at its current session;[3]

2. *Requests* the drafting group to recirculate the questionnaire to seek the views of Member States, as appropriate, relevant international and regional organizations, national human rights institutions and non-governmental organizations and other stakeholders that did not respond to the questionnaire in order to allow for better informed work;

3. *Also requests* the drafting group to submit a draft progress report to the Advisory Committee at its nineteenth session, taking into account the discussion held by the Committee at its current session with a view to submitting a final report to the Human Rights Council at its thirty-ninth session.

9th meeting
24 February 2017

[Adopted without a vote.]

18/3. Unaccompanied migrant children and adolescents and human rights

The Human Rights Council Advisory Committee,

[3] A/HRC/AC/18/CRP.4

Recalling Human Rights Council resolution 29/12 of 2 July 2015, in which the Council requested the Advisory Committee to develop a research-based study on the global issue of unaccompanied migrant children and adolescents and human rights, in which it identified areas, reasons and cases where this issue arises in the world, and the ways in which human rights are threatened and violated, and makes recommendations for the protection of the human rights of members of this population, and to submit it to the Council at its thirty-third session for its consideration,

Recalling also that, at its fifteenth session, the Advisory Committee established a drafting group, currently composed of Ibrahim Abdul Aziz Alsheddi, Mario Luis Coriolano, Carla Hanania de Varela (Rapporteur), Obiora Chinedu Okafor, Katharina Pabel, Anantonia Reyes Prado (Chair) and Changrok Soh, and Lazhari Bouzid, who joined the drafting group at the current session,

Recalling further that, at its sixteenth session, the Advisory Committee, in its action 16/2, recommended that the Human Rights Council extend the time schedule envisaged to allow for better informed work by, inter alia, taking into account the work of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Committee on the Rights of the Child, and consequently that it request the Advisory Committee to present a progress report to the Council at its thirty-third session and a final report at its thirty-sixth session,

Recalling the need for enhanced communication, coordination and collaboration in the drafting of the report with the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Committee on the Rights of the Child and the Special Representative of the Secretary-General on Violence against Children in order to ensure coherence and to enhance synergies,

Recalling also that, at its seventeenth session, the Advisory Committee took note of the progress report submitted to the Human Rights Council for consideration at its thirty-third session,[4] and requested the drafting group to submit its draft final report to the Committee at its eighteenth session, taking into account the discussion held by the Committee at the seventeenth session with a view to submitting the final report to the Council at its thirty-sixth session,

1. *Takes note* of the draft final report on the research-based study on the global issue of unaccompanied migrant children and adolescents and human rights submitted by the drafting group to the Advisory Committee at its eighteenth session;[5]

2. *Requests* the drafting group to finalize the report to the Human Rights Council in the light of the discussion held by the Advisory Committee at its current session, after circulating it electronically to all members of the Committee for approval, with a view to submitting it to the Council at its thirty-sixth session.

9th meeting
24 February 2017

[Adopted without a vote.]

18/4. Negative impact of the non-repatriation of funds of illicit origin on the enjoyment of human rights

The Human Rights Council Advisory Committee,

[4] A/HRC/33/53.
[5] A/HRC/AC/18/CRP.2.

Recalling Human Rights Council resolution 31/22 of 24 March 2016, in which the Council requested the Advisory Committee to conduct a comprehensive research-based study on the impact of flow of funds of illicit origin and the non-repatriation thereof to the countries of origin on the enjoyment of human rights, including economic, social and cultural rights, with a special emphasis on the right to development, with a view to compiling relevant best practices and main challenges, and to make recommendations on tackling those challenges based on the best practices in question, and to present a progress report on the requested study to the Council at its thirty-sixth session for its consideration,

Recalling also that the Human Rights Council also requested the Advisory Committee to seek, if necessary, further views and the input of Member States, relevant international and regional organizations, the United Nations High Commissioner for Human Rights and relevant special procedures, national human rights institutions and non-governmental organizations, in order to finalize the study, taking into account, inter alia, the final study on illicit financial flows, human rights and the 2030 Agenda for Sustainable Development, of the Independent Expert on the effect of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights,

Recalling further that, at its seventeenth session, the Advisory established a drafting group, currently comprising Mario Luis Coriolano, Mikhail Lebedev, Obiora Chinedu Okafor (co-Rapporteur), Ahmer Bilal Soofi (Chair) and Jean Ziegler (co-Rapporteur), and Mona Omar, who joined the drafting group at the current session.

1. *Takes note* of the draft progress report on the research-based study on the impact of flow of funds of illicit origin and the non-repatriation thereof to the countries of origin on the enjoyment of human rights submitted by the drafting group at its current session;[6]

2. *Requests* the drafting group to finalize the progress report to the Human Rights Council in the light of the discussion held by the Advisory Committee at its current session, after circulating it electronically to all members of the Committee for approval, with a view to submitting it to the Council at its thirty-sixth session.

9th meeting
24 February 2017

[Adopted without a vote.]

II. Adoption of the agenda and organization of work

A. Opening and duration of the session

1. The Human Rights Council Advisory Committee, established pursuant to Human Rights Council resolution 5/1 of 18 June 2007, held its eighteenth session at the United Nations Office at Geneva from 20 to 24 February 2017. The session was opened by the Chair of the seventeenth session, Ahmer Bilal Soofi.

2. The President of the Human Rights Council, Joaquín Alexander Maza Martelli, addressed the Advisory Committee at its first meeting, on 20 February 2017.

[6] A/HRC/AC/18/CRP.3.

3. At the same meeting, the Director of the Human Rights Council and Treaty Mechanisms Division of the Office of the United Nations High Commissioner for Human Rights (OHCHR) made a statement on behalf of the High Commissioner.

4. Also at the same meeting, participants observed a minute of silence for the victims of human rights violations around the world.

B. Composition of the Advisory Committee

5. The membership of the Advisory Committee is as follows:[7] Ibrahim Abdul Aziz Alsheddi (Saudi Arabia, 2018); Mohamed Bennani (Morocco, 2017); Laurence Boisson de Chazournes (France, 2017); Lazhari Bouzid (Algeria, 2019); Mario Luis Coriolano (Argentina, 2018); Carla Hananía de Varela (El Salvador, 2019); Mikhail Lebedev (Russian Federation, 2019); Xinsheng Liu (China, 2019); Kaoru Obata (Japan, 2019); Obiora Chinedu Okafor (Nigeria, 2017); Mona Omar (Egypt, 2019); Katharina Pabel (Austria, 2018); Anantonia Reyes Prado (Guatemala, 2017); Changrok Soh (Republic of Korea, 2017); Ahmer Bilal Soofi (Pakistan, 2017); Imeru Tamrat Yigezu (Ethiopia, 2018); and Jean Ziegler (Switzerland, 2019).[8]

6. Following her election to the Committee on Economic, Social and Cultural Rights in June 2016, Laura-Maria Crăciunean resigned from the Advisory Committee.

C. Attendance

7. The session was attended by members of the Advisory Committee and observers for States Members of the United Nations, international organizations and non-governmental organizations. Ms. Hananía de Varela was unable to attend the session owing to medical reasons.

D. Meetings and documentation

8. At its eighteenth session, the Advisory Committee held nine plenary meetings and four closed meetings. The drafting groups on the elimination of discrimination against persons affected by leprosy and their family members, regional arrangements for the promotion and protection of human rights, unaccompanied migrant children and adolescents and human rights, and the negative impact of the non-repatriation of the funds of illicit origin on the enjoyment of human rights also held closed meetings. The Advisory Committee also held a private meeting with the Working Group on Communications, and held meetings with representatives of non-governmental organizations, the Bureau of the Human Rights Council, and regional and political group coordinators.

9. The Advisory Committee also held a meeting with 11 delegates of States supported by the Voluntary Technical Assistance Trust Fund to Support the Participation of Least Developed countries and Small Island Developing States in the work of the Human Rights Council. In the ensuing discussion, statements were made by members of the Advisory Committee, delegates of least developed countries and small island developing States, observers for States, and an observer for an intergovernmental organization (see annex I).

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[7] Years in parentheses indicate the expiry of the terms of office (terms of office end on 30 September).

[8] A member for Eastern European States will be appointed by the Human Rights Council at its thirty-fourth session.

E. Election of officers

10. In accordance with rule 103 of the rules of procedure of the General Assembly and rule 5 of the rules of procedure of the Advisory Committee, the following officers were elected by acclamation at the first meeting of the eighteenth session, held on 20 February 2017:

Chair:	Mikhail Lebedev
Vice-Chairs:	Mohamed Bennani Laurence Boisson de Chazournes Kaoru Obata Anantonia Reyes Prado
Rapporteur:	Kaoru Obata

F. Adoption of the agenda

11. At its first meeting, on 20 February 2017, the Advisory Committee adopted its agenda (A/HRC/AC/18/1).

G. Organization of work

12. At its first meeting, on 20 February 2017, the Advisory Committee adopted the draft programme of work prepared by the secretariat.

III. Requests addressed to the Advisory Committee stemming from Human Rights Council resolutions

A. Requests currently under consideration by the Advisory Committee

1. Integration of a gender perspective

13. At the 1st meeting, on 20 February 2017, a representative of the Women's Rights and Gender Section of OHCHR gave a presentation on the issue of the integration by the Advisory Committee of a gender perspective into the implementation of its mandate, in accordance with Human Rights Council resolution 6/30. During the ensuing discussion, statements were made by members of the Advisory Committee and an observer for a State (see annex I).

2. Elimination of discrimination against persons with leprosy and their family members

14. At its 2nd meeting, on 20 February 2017, the Advisory Committee, pursuant to Human Rights Council resolution 29/5, held a discussion on the elimination of discrimination against persons affected by leprosy and their family members. The Rapporteur of the drafting group, Mr. Yigezu, presented the draft final report thereon (A/HRC/AC/18/CRP.1), to be submitted to the Council for consideration at its thirty-fifth session. During the ensuing discussion, statements were made by members of the Advisory Committee, observers for States, and observers for non-governmental organizations (see annex I). Thereafter, the Rapporteur made concluding remarks.

15. At the 9th meeting, on 24 February 2017, the Chair of the drafting group on the elimination of discrimination against persons affected by leprosy and their family members,

Mr. Obata, introduced a draft text (A/HRC/AC/18/L.1) sponsored by all the members of the Advisory Committee. The draft text, as orally revised, was adopted without a vote (see sect. I, action 18/1).

3. Regional arrangements for the promotion and protection of human rights

16. At its 3rd meeting, on 21 February 2017, the Advisory Committee, pursuant to Human Rights Council decision 32/115, held a discussion on regional arrangements for the promotion and protection of human rights. The Rapporteur of the drafting group, Mr. Soh, presented a draft progress report thereon (A/HRC/AC/18/CRP.4), to be submitted to the Council for consideration at its thirty-ninth session. In this context, a presentation on the topic was given by a representative of OHCHR. During the ensuing discussion, members of the Advisory Committee made statements (see annex I). Thereafter, the Rapporteur made concluding remarks.

17. At the 9th meeting, on 24 February 2017, the Chair of the drafting group on regional arrangements for the promotion and protection of human rights, Ms. Pabel, introduced a draft text (A/HRC/AC/18/L.2) sponsored by all the members of the Advisory Committee. The draft text, as orally revised, was adopted without a vote (see sect. I, action 18/2).

4. Global issue of unaccompanied migrant children and adolescents and human rights

18. At its 4th meeting, on 21 February 2017, the Advisory Committee, pursuant to Human Rights Council resolutions 29/12 and 33/7, held a discussion on the global issue of unaccompanied migrant children and adolescents and human rights. The Chair of the drafting group, Ms. Reyes Prado, presented the draft final report thereon (A/HRC/AC/18/CRP.2), to be submitted to the Council for consideration at its thirty-sixth session. In this context, presentations on the topic were given via video conference by the Vice-chair of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, Pablo Ceriani, and a child protection expert from the Office of the Special Representative of the Secretary-General on Violence against Children, Ann-Kristen Vervick. The Secretary of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families also gave a presentation on the topic. During the ensuing discussion, statements were made by members of the Advisory Committee and observers for States (see annex I). Thereafter, the Chair made concluding remarks.

19. At the 9th meeting, on 24 February 2017, the Chair of the drafting group on the global issue of unaccompanied migrant children and adolescents and human rights, Ms. Reyes Prado, introduced a draft text (A/HRC/AC/18/L.3) sponsored by all the members of the Advisory Committee. The draft text was adopted without a vote (see sect. I, action 18/3).

5. Negative impact of the non-repatriation of funds of illicit origin on the enjoyment of human rights

20. At its 5th meeting, on 22 February 2017, the Advisory Committee, pursuant to Human Rights Council resolution 31/22, held a discussion on the negative impact of the non-repatriation of funds of illicit origin on the enjoyment of human rights. The co-rapporteurs of the drafting group, Mr. Okafor and Mr. Ziegler, presented a draft progress report thereon (A/HRC/AC/18/CRP.3), to be submitted to the Council for consideration at its thirty-sixth session. In this context, a presentation on the topic was given by a member of the Committee against Torture, Abdelwahab Hani. During the ensuing discussion, statements were made by members of the Advisory Committee and observers for States (see annex I). Thereafter, the co-rapporteurs made concluding remarks.

21. At its 9th meeting, on 24 February 2017, the co-Rapporteur of the drafting group on negative impact of the non-repatriation of funds of illicit origin on the enjoyment of human rights, Mr. Okafor, introduced a draft text (A/HRC/AC/18/L.4), sponsored by all members of the Advisory Committee. The draft text was adopted without a vote (for the texts as adopted, see sect. I, action 18/4).

B. Follow-up to reports submitted to the Human Rights Council

Local government and human rights

22. At the 6th meeting, on 22 February 2017, the Chair of the Advisory Committee informed the members of the Committee on Human Rights Council resolution 33/8, in which the Council took note with appreciation of the final report of the Advisory Committee (A/HRC/30/49), and decided to convene between its thirty-fifth and thirty-sixth sessions a panel discussion on the role of local government in the promotion and protection of human rights. The panel discussion is due to be held on 4 September 2017, and a report thereon will be presented by the High Commissioner to the Council at its thirty-eighth session.

23. At the same meeting, Ms. Pabel informed the Committee about her participation in a conference to present the report of the Advisory Committee on the topic.

IV. Implementation of sections III and IV of the annex to Human Rights Council resolution 5/1 of 18 June 2007 and of section III of the annex to Council resolution 16/21 of 25 March 2011

A. Review of methods of work

24. On 21 and 22 February 2017, the Advisory Committee held closed meetings to discuss its methods of work and ways and means to improve its procedural efficiency.

B. Agenda and annual programme of work, including new priorities

25. At its 7th and 8th meetings, on 23 February 2017, the Advisory Committee held a discussion on reflection papers and research proposals. Members of the Committee presented the following draft reflection papers for consideration by the Committee:

- Assessment of the impact of the work of the Advisory Committee and its implementation (Kaoru Obata)
- Access to justice: principles and guidelines (Mario Luis Coriolano)
- Destruction of cultural heritage and its effects on the enjoyment of economic, social and cultural rights (Jean Ziegler)
- Engagement with non-governmental organizations and national human rights institutions (Mario Luis Coriolano)
- Budget and human rights (Mario Luis Coriolano)
- The promotion and protection of intangible social heritage (Mohamed Bennani)

26. In this context, presentations were given by representatives of OHCHR and by means of videoconference by the regional representative of the OHCHR Regional Office for South America and Santiago Canton, Secretary for Human Rights for Buenos Aires. During the ensuing discussions, members of the Advisory Committee, observers for States and observers for non-governmental organizations made statements (see annex I).

27. At its 7th meeting, the Advisory Committee decided to submit a new research proposal on the destruction of cultural heritage and its effects on the enjoyment of economic, social and cultural rights (see annex III) to the Human Rights Council for its consideration.

28. At the 8th meeting, the Advisory Committee decided to continue consideration of the remaining reflection papers at its 19th session.

V. Report of the Advisory Committee on its eighteenth session

29. At the 9th meeting, on 24 February 2017, the Rapporteur of the Advisory Committee presented the draft report of the Committee on its eighteenth session. The Committee adopted the draft report ad refere15ndum and decided to entrust the Rapporteur with its finalization.

30. At the same meeting, Mr. Bennani, Ms. Boisson de Chazournes, Mr. Liu, Ms. Omar, Ms. Reyes Prado and Mr. Soh made closing statements. An observer for iuventum, a non-governmental organization, also made a statement. Following the usual exchange of courtesies, the Chair made final remarks and declared the eighteenth session of the Advisory Committee closed.

Annex I

List of speakers

Agenda item		*Meeting and date*	*Speakers*
3. Requests addressed to the Advisory Committee stemming from Human Rights Council resolutions			
(a) Requests currently under consideration by the Committee	(ii) Elimination of discrimination against persons affected by leprosy and their family members: a gender perspective	1st meeting 20 February 2017	Members: Lazhari Bouzid, Mikhail Lebedev, Mona Omar, Katharina Pabel, Anantonia Reyes Prado, Imeru Tamrat Yigezu Observer State: Egypt
	(iv) Elimination of discrimination against persons affected by leprosy and their family members	2nd meeting 20 February 2017	Members: Lazhari Bouzid, Mario Luis Coriolano, Xinsheng Liu, Kaoru Obata, Obiora Chinedu Okafor, Mona Omar, Anantonia Reyes Prado, Ahmer Bilal Soofi Observer States: Brazil, Ethiopia Non-governmental organizations: The Nippon Foundation, International Federation of Anti-Leprosy Associations (ILEP)
	(vii) Regional arrangements for the promotion and protection of human rights	3rd meeting 21 February 2017	Members: Mohamed Bennani, Lazhari Bouzid, Mario Luis Coriolano, Mikhail Lebedev, Xinsheng Liu, Kaoru Obata, Obiora Chinedu Okafor, Mona Omar, Katharina Pabel, Anantonia Reyes Prado, Ahmer Bilal Soofi, Imeru Tamrat Yigezu
	(v) Unaccompanied migrant children and adolescents and human rights	4th meeting 21 February 2017	Members: Lazhari Bouzid, Mario Luis Coriolano, Mona Omar Observer States: El Salvador, Greece, Honduras, Italy, Libya, Venezuela (Bolivarian Republic of)

Agenda item		*Meeting and date*	*Speakers*
	(vi) Negative impact of the non-repatriation of funds of illicit origin on the enjoyment of human rights	5th meeting 22 February 2017	Members: Lazhari Bouzid, Mario Luis Coriolano, Mikhail Lebedev, Mona Omar, Ahmer Bilal Soofi, Imeru Tamrat Yigezu State observers: Bolivia (Plurinational State of), Egypt, Syrian Arab Republic, Tunisia
(b) Follow-up to reports submitted to the Human Rights Council 4. Implementation of sections III and IV of the annex to Human Rights Council resolution 5/1 of 18 June 2007 and of section III of the annex to Council resolution 16/21 of 25 March 2011	(i) Local Government and human rights	6th meeting 22 February 2017	Members: Lazhari Bouzid, Kaoru Obata, Anantonia Reyes Prado, Changrok Soh State observer: Republic of Korea
(b) Agenda and annual programme of work, including new priorities		7th and 8th meeting 22 February 2017	Members: Mohamed Bennani, Laurence Boisson de Chazournes, Lazhari Bouzid, Mario Luis Coriolano, Mikhail Lebedev, Xinsheng Liu, Kaoru Obata, Obiora Chinedu Okafor, Mona Omar, Katharina Pabel, Anantonia Reyes Prado, Changrok Soh, Ahmer Bilal Soofi, Imeru Tamrat Yigezu State observers: Argentina, Bhutan, Cabo Verde, Djibouti, France, Haiti, Jamaica, Marshall Islands, Micronesia (Federated States of), Myanmar, Papua New Guinea, Peru, Senegal, Serbia, Switzerland, Timor-Leste, Tonga, and Trinidad and Tobago Intergovernmental organization: Convention Against Torture Initiative

A/HRC/35/182

Annex II

List of documents issued for the eighteenth session of the Advisory Committee

Documents for general distribution

Symbol	*Agenda item*	
A/HRC/AC/18/1	2	Provisional agenda
A/HRC/AC/18/1/Add.1	2	Annotations to the provisional agenda
A/HRC/AC/18/2	5	Report of the Advisory Committee on its eighteenth session

Documents for limited distribution

Symbol	*Agenda item*	
A/HRC/AC/18/L.1	3 (a) (iv)	Elimination of discrimination against persons affected by leprosy, and their family members
A/HRC/AC/18/L.2	3 (a) (vii)	Regional arrangements for the promotion and protection of human rights
A/HRC/AC/18/L.3	3 (a) (v)	Unaccompanied migrant children and adolescents and human rights
A/HRC/AC/18/L.4	3 (a) (vi)	Negative impact of the non-repatriation of funds of illicit origin on the enjoyment of human rights

Documents issued in the non-governmental organizations series

Symbol	*Agenda item*	
A/HRC/AC/18/NGO/1	3 (a) (iv)	Written statement submitted by the Nippon Foundation, a non-governmental organization on the roster

Annex III

Research proposal

Destruction of cultural heritage and its effects on the enjoyment of economic, social and cultural rights

1. Acts of intentional destruction[a] of cultural heritage continue to spread across multiple regions of the world. Existing armed conflict and post-conflict situations are the breeding ground for acts of pillage, looting and acts of vandalism against cultural property. Despite recent visible and openly declared acts against cultural heritage have been broadly condemned[b], if no corrective action is urgently taken, there is a risk that such violations will progressively be tolerated as an unavoidable consequence of armed hostilities and, ultimately, end up going unnoticed to public opinion[c]. As it has been observed, "cultural heritage is not a weapon: it is an issue concerning universal human rights. We must come together to defend the heritage of all, for all"[d].

2. In January 2017 the UN Security Council (SC) issued a new public statement to express its alarm at reports of the destruction of cultural heritage in Palmyra, Syria by ISIL/Da'esh, including the tetrapylon and parts of the theatre. The SC's members reiterated their condemnation of the destruction of cultural heritage including targeted destruction of religious sites and objects'. They noted with concern that ISIL and other individuals, groups, undertakings and entities associated with Al-Qaida have generated income from engaging directly or indirectly in the looting and smuggling of cultural heritage items from archaeological sites, museums, libraries, archives and other sites in Syria[e]. Such funds are being used to support their recruitment efforts and to strengthen their operational capability to organize and carry out terrorist attacks. The members of the Security Council underlined the need to bring perpetrators of these acts to justice.

3. These are not isolated acts. It is well known that the terrorist organization 'State Islamic' (Daesh) is systematically destroying monuments dating back to the pre-Islamic times in the territory under its control notably in Iraq, Syria, Libya and Mali. Two particularly striking examples are the destruction of the Palmyra's ancient Temple of

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[a] "Intentional destruction" is defined as "an act intended to destroy in whole or in part cultural heritage, thus compromising its integrity, in a manner which constitutes a violation of international law or an unjustifiable offence to the principles of humanity and dictates of public conscience".

[b] The UNESCO is at the forefront in publicly denouncing and strongly condemning any acts of destruction of World Heritage sites. In relation with the destruction of an iconic part of the Syrian site of Palmyra, the Director-General of the organization said that 'the systematic destruction of cultural symbols embodying Syrian cultural diversity reveals the true intent of such attacks, which is to deprive the Syrian people of its knowledge, its identity and history'. 'Director-General Irina Bokova firmly condemns the destruction of Palmyra's ancient temple of Baalshamin, Syria; http://en.unesco.org/news/director-general-irina-bokova-firmly-condemns-destruction-palmyra-s-ancient-temple-baalshamin.

[c] The action of UNESCO, the UN Special Rapporteur in the field of cultural rights and international civil society, such as the L'Association Mondiale 'Patrimoine Vivant', continues to be crucial in denouncing actions intentionally aimed at devastating the cultural heritage as violations of cultural rights.

[d] A/71/317, para. 9.

[e] https://www.un.org/press/en/2017/sc12690.doc.htm.

[f] See S/RES/2199 (2015).

Baalshamin in Syria and more recently of Sabrata and Leptis Magna in Libya[g]. Such strategy is not only carried out to obtain an economic support by selling in the international market objects of art such as sculptures, rituals objects and others, looted from the territories under their control[h]; it also tend to eradicate those pieces of art that feed the memory of the humanity and populations. I fact, there are many examples which are believed to be part of a kind of "cultural engineering" practiced by these extremist groups with the aim of transforming tradition and history, which implies. Such is a very concerning trend considering that its ultimate goal is erasing memory and whatever does not accord with their vision to create new historical narratives without affording any alternatives to them[i].

4. To erase pre-Islamic history, ISIS has employed sledgehammers and drills at a museum in Mosul, explosives at Palmyra, and all of these weapons, plus jackhammers, power saws, and bulldozers, at Nimrud. As the conflict progresses, the trade of antiquities has become the source of a significant revenue for the terrorist group. Investigations not only confirm that ISIS profits from loot and regulates black market profits, but also that such illicit goods are traded on the markets in Europe and the United States[j].

5. There are clear evidences that this strategy benefits from the lack of clear regulation, monitoring and sensitization of those involved in arts market is contributing to the pillage of ancient sites, as the illicit trade of artefacts is fuelled by demand. According to US customs, between 2011 and 2013 alone, there has been a 145% increase in imports of Syrian cultural property and 61% increase in imports of Iraqi cultural property. These numbers suggest that illicit trade is piggybacking on the legal trade[k].

6. Against this background, the Special Rapporteur in the field of cultural rights has recalled that "the obligation to stop looting must be viewed as a collective one which includes not only the States where looting takes place but also those powerful countries that offer the lucrative markets for looted objects. If they do not reduce market demand, there will be further incentive for looting and for intentional destruction, and more funding for groups engaging in it"[l].

7. Disrespect demonstrated by States involved in hostilities *vis-a-vis* the added value for humanity of protecting cultural heritage from destruction, exacerbates this situation. There are clamorous evidences of unnecessary or disproportionate attacks against cultural property which are nevertheless officially justified on the basis of military necessity[m]. It is a disconcerting fact to admit, but there are clear evidences that cultural heritage is clearly being targeted "not in spite of the prohibitions on attacking cultural heritage and

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[g] See:Ch. Doppelhofer, 'Will Palmyra rise again?War Crimes against Cultural Heritage and Post-war reconstruction';
http://www.ohchr.org/EN/Issues/CulturalRights/Pages/IntentionalDestruction.aspx.

[h] Reportedly, ISIS maintains a marginally profitable "antiquities division"; See: B. Taub, 'The real value of ISIS antiquities trade', *The New Yorker*, 4 December 2015; at:
http://www.newyorker.com/news/news-desk/the-real-value-of-the-isis-antiquities-trade.

[i] A/71/317, para. 36.

[j] Reportedly, ISIS maintains a marginally profitable "antiquities division"; See: B. Taub, 'The real value of ISIS antiquities trade', *The New Yorker*, 4 December 2015; at:
http://www.newyorker.com/news/news-desk/the-real-value- of-the-isis-antiquities-trade.

[k] L. Amineddoleh, 'How western art collectors are helping to fund Isis', *The Guardian*, 26 February 2016.

[l] A/71/317, para. 31.

[m] See : A/71/317, paras. 37, 47-51 and 59-67.

notwithstanding the value of the objects in question, but precisely because of that value and those norms"[7].

8. The prohibition of acts of deliberate destruction of cultural heritage is a norm of general international law, also applicable to non-state actors[8]. The destruction of cultural heritage constitutes a war crime under Article 8 of the International Criminal Court's Statute. In 2016 the Court, for the first time, condemned on this basis an individual for the destruction of cultural monuments in the case against a jihadi leader accused of demolishing ancient mausoleums in Timbuktu (Mali)[9]. Increasingly, it is acknowledged that acts of intentional destruction may under certain circumstances constitute "cultural cleansing" since they take the terrorization of a population to a new level by attacking even its history. Such cases represent an urgent challenge to cultural rights, and calls for a rapid and thoughtful international response[10].

9. Destruction of cultural heritage is most often irreversible and is motivated by the desire of annihilating the identity of a group and erasing its collective memory. International community cannot remain impassive before such evidence. Time is of the essence. States are unequivocally instructed to prevent, avoid, stop and suppress intentional destructions, whenever such heritage is located[11]. They are particularly called to refrain from any military use or targeting of cultural property in compliance with IHL and complementary human rights applicable norms. Enhanced cooperation is also needed to prevent and combat the looting, smuggling and illicit trafficking in cultural objects. UN bodies should also enhance coordination to strengthen the implementation of the international legal framework[12].

10. By Resolution 2199 (2015) the Security Council condemned the destruction of cultural heritage in Iraq and Syria particularly by ISIL and ANF "including targeted destruction of religious sites and objects" regardless incidental or deliberate[13]. It called upon to Member States to take all appropriate steps to: 1) prevent the trade in Iraqi and Syrian cultural property and other items of archaeological, historical, cultural, rare scientific and religious importance illegally removed from Iraq and Syria, including by prohibiting cross-border trade in such items; 2) restoring looted or trafficked cultural properties to the Iraqi and Syrian people and calls upon the UNESCO, Interpol, and other international organizations, as appropriate, to assist in this task[14].

11. According the 2003 UNESCO Declaration concerning the Intentional Destruction of Cultural Heritage intentional destruction of cultural heritage "may have adverse

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[7] UN Doc. A/HRC/31/59, 3 February 2016, 'Report of the Special Rapporteur in the field of cultural rights', paras. 66 and 45.

[8] See: https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule40; A/71/317, para. 60.

[9] https://www.icc-cpi.int/mali/al-mahdi; 'ICC's first cultural destruction trial to open in The Hague', *The Guardian*, 28 February 2016; http://www.theguardian.com/law/2016/feb/28/iccs-first-cultural-destruction-trial-to-open-in-the-hague.

[10] A/HRC/31/59, para. 67.

[11] See the 2003 UNESCO Declaration concerning the Intentional Destruction of Cultural Heritage.

[12] A/71/317, para. 2.

[13] The SC noted with concern that those terrorist organizations and other individuals, groups, undertakings and entities associated with Al-Qaida "are generating income from engaging directly or indirectly in the looting and smuggling of cultural heritage items from archaeological sites, museums, libraries, archives, and other sites… which is being used to support their recruitment efforts and strengthen their operational capability to organize and carry out terrorist attacks".

[14] In implementing this mandate, the UNESCO has developed a strategy to strengthen its capacity to respond urgently to cultural emergencies; See: http://en.unesco.org/system/files/unesco_clt_strategy_en.pdf.

consequences on human dignity and human rights"[7]. Building on this statement, a human rights perspective has been increasingly introduced in the debate. In fact, is increasingly believed that such approach would allow going beyond in the protection of cultural heritage, by bringing into the discussion the rights of individuals and groups "to connect cultural heritage with its source of production"[8]. Existing connections between tangible and intangible heritage should be further emphasized, as the Committee on Economic, Social and Cultural Rights' States' has stated, the obligations to respect and to protect freedoms, cultural heritage and cultural diversity are interconnected. It is impossible to separate a people's cultural heritage from the people itself and their rights[9]. As the ICJ Judge Cançado Trindade has observed, the ultimate titulaires of the right to the safeguard and preservation of their cultural and spiritual heritage are the collectivities of human beings concerned, or else humankind as a whole"[10].

12. The Human Rights Council should take a more pro-active stance before this concerning trend and contribute to the debate to the intentional destruction of cultural heritage by highlighting the human rights related concerns and issues which are involved. Resolution 33/20 on the Cultural rights and the protection of cultural heritage adopted by consensus on September 2016 constitutes an important step in this direction. The HRC recognized that "addressing the destruction of tangible and intangible cultural heritage needs to be holistic, encompassing all regions, contemplating both prevention and accountability, focusing on acts by State and non-State actors in both conflict and non-conflict situations, and terrorist acts". It further decided to convene, before the thirty-sixth session, a one-day intersessional seminar on ways to prevent, contain and/or mitigate the detrimental impact of the damage to or destruction of cultural heritage on the enjoyment of human rights, including cultural rights by all, and on best practices in this regard and to present a summary report at its thirty-seventh session.

13. A holistic approach is therefore needed to unify the different policies, strategies and positions that have been put forward by the different actors. To that end, the Advisory Committee could be mandated to develop a desk-study focussing on the negative impact of the destruction of cultural heritage on the enjoyment of economic, social and cultural rights, and the right to development. More specifically, the Advisory Committee's research study would aim at supporting the implementation of Council resolution 33/20 as well as the mandate of the Special Rapporteur in the field of cultural rights by: a) taking stock of the existing international initiatives, rules and good practices both at national and international level; b) identifying the main human rights issues which are at stake; c) addressing illegal trade in cultural property and failures of current policies to tackle this problem; d) making recommendations for actions to States, IOs, NGOs and other stakeholders to strengthening a human-rights based approach.

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[7] The Declaration also stresses that cultural heritage constitutes "an important component of cultural identity and of social cohesion".

[8] A/71/317, para. 53 and A/HRC/17/38 and Corr. 1 para. 2.

[9] See: General Comment No. 21, para. 50. Under article 15 of the International Covenant on Economic, Social and Cultural Rights includes the obligation to respect and protect cultural heritage in all its forms and of all groups.

[10] Request for Interpretation of the Judgement of 15 June 1962 in the *Case Concerning the Temple of Preah Vihear (Cambodia v. Thailand)*, Separate Opinion of Judge Cançado Trindade, *ICJ Reports 2013*, p. 606, para. 114.